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HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No.51/2007

PETITIONER Duleshwar Sahu, aged about 25 years, Son of Shri Itwari Sahu, Resident of Village Haldi, Tahsil and District – Rajnandgaon (C.G.)

Versus

RESPONDENT State of Chhattisgarh,

PETITION UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE

Appearance:

Shri P.K.C. Tiwari, Sr. Advocate with Shri Shashi Bushan, counsel for the petitioner.

Shri G. K. Beriwal, Dy. Advocate General for the State.

ORAL ORDER
(02.06.2007)

SUNIL KUMAR SINHA, J.

Heard.

This petition is directed against the order dated 14.12.2006 passed in Criminal Revision No.134/2006 by the Second Additional Sessions Judge, Rajnandgaon (C.G.), whereby, the said Court rejected the aforesaid revision and confirmed the order dated 24.11.2006 passed by the Chief Judicial Magistrate, Rajnandgaon (C.G.), who had dismissed an application of the petitioner for releasing the seized properties on *Supurdnama* under Section 457 of the Code of Criminal Procedure.

It is an admitted fact that the petitioner – Duleshwar Sahu was a licensee for running a Video Game Parlor. He used to pay tax to the Excise Department and was granted license under certain conditions for the said parlor. During the course of investigation of Crime No.460/2006 registered under Sections 3 & 4-A of the Public Gambling Act, various electronic/electrical articles belonging to the petitioner

alongwith certain cash amount were seized from the possession of the petitioner on 2/9/2006. A seizure memo to this effect was also prepared on the said day by the Investigating Officer, the copy of which has been produced before this Court. After the seizure, an application was filed by the petitioner for releasing the articles and currency notes on *Supurdnama* before the Magistrate. The Magistrate dismissed the application on the ground that these articles may be required during the course of evidence; therefore, they should not be released to the petitioner. Being aggrieved with the aforesaid order passed by the Magistrate, the petitioner filed a Criminal Revision before the Sessions Court and the Sessions Court also took the similar view and dismissed the revision filed by the petitioner. It is against the said order passed by the Sessions Court; the petitioner has visited this Court with a prayer to release the seized articles on *Supurdnama.*

I have heard learned counsel for the parties at length and have also perused the records of this case.

Section 451 Cr.P.C. empowers the Court to pass appropriate orders with regard to a property of criminal trial. This provides that the orders should be passed by the concerned court for the proper custody pending conclusion of the enquiry or trial; *or* to order it to be sold or otherwise disposed of, after recording such evidence as it thinks necessary; and if the property is subject to the speedy and natural decay, to dispose of the same. This power should be exercised expeditiously and judiciously, as a quick action will not render the owner of the article to suffer because of its remaining unused or in some cases by its misappropriation and the Court or the Police would also not be required to keep the article in safe custody till the disposal of the trial and if the property is a vehicle (though it is not in this case), the quick disposal is necessitated because it is of no use to keep such seized vehicle at the Police Station for a long period as ultimately the long detention would render into a junk and the machinery as well as body parts would be of no use for nobody.

In the present case, admittedly, except the money seized, all other articles are electronic/electrical articles, which would certainly be of no use, if are kept in unused condition without proper maintenance

for protecting them from dust etc. They would certainly become useless and ultimately, their value would be lowered down and it shall be of no use either for prosecution or for the defence. Even if the property is subjected to confiscation, the best interest of both the parties would be served if it is kept in good and proper condition so that it may remain valuable, as it was at the initial stage, and the party receiving it at last, may receive the same in a good condition.

In the facts and circumstances of this case, as far as electronic/electrical articles are concerned, I am of the opinion that those articles should be returned back to the petitioner under certain conditions.

It is directed that all the seized articles except the currency notes, which are seized according to the specification mentioned in the seizure memo dated 2/9/2006, shall be released on *Supurdnama* to the petitioner on the following conditions :

(i) He shall execute a *Supurdnama* to the tune of Rs.50,000/-.

(ii) He shall not alienate or transfer the property to anybody else till the disposal of the trial.

(iii) He shall not create any third party interest on the property.

(iv) He shall produce the property, as and when directed by the Court during the course of trial

(v) He shall produce a solvent surety to the tune of Rs.50,000/, ensuring compliance of the conditions of the *Supurdnama* executed by the petitioner.

The impugned orders passed by the Courts below are set aside.

The petition stands allowed on the aforesaid conditions.

Sd/-
Sunil Kumar Sinha
Judge

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